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February 3, 2006
Appellant's motion to
include illustrative
exhibits in ~~the brief~~
The appendix to its brief is
passed to the panel. No
consider the appeal on the
merits, as it
will be
REPLY TO
RESPONDENT'S in a better position
RESPONSE TO to determine ^{or} ~~whether~~
MOTION TO INCLUDE ~~whether~~ ^{not} the
ILLUSTRATIVE
EXHIBITS IN
APPENDIX TO BRIEF ^{improperly}
include new
facts.

NO. 57411-6-I

COURT OF APPEALS FOR DIVISION I
STATE OF WASHINGTON

DAVID J. JENKINS,
Respondent,

v.

DEPARTMENT OF SOCIAL AND
HEALTH SERVICES,
Appellant.

Mary S. Neill
Commissioner

This case involves a challenge to a series of rules promulgated by
the Appellant Department of Social and Health Services (DSHS or "the

Department" that determine how the amount of public assistance benefits
for which individuals such as Mr. Jenkins is determined. An
understanding of the rules at issue and how they operate with respect to a
variety of DSHS clients, and not just Mr. Jenkins, will enhance the Court's
ability to resolve the issues involved in the appeal. Accordingly, the Brief
of the Appellant describes the operation of the rule with respect to
hypothetical clients, and Appellant has prepared illustrative exhibits with
respect to each of these hypothetical clients. Appellant moved to include
them in the appendix to the Brief of Appellant pursuant to RAP 10.3(7).

Respondent has filed a response objecting largely because of the
additional pages, asserting that they constitute "new facts" and that the

additional briefing pages requested in a companion motion should be “ample.”

Respondent misses the point. First, these documents do not set forth “new facts.” As stated in the Appellant’s motion, the documents at issue are *illustrative* exhibits designed to illustrate how the rules at issue operate in different circumstances. An understanding of the rule at issue and how it operates will enhance the Court’s ability to resolve the issues involved in the appeal. These illustrative exhibits, taken together with the discussion of them in the text of the brief, will facilitate that understanding.

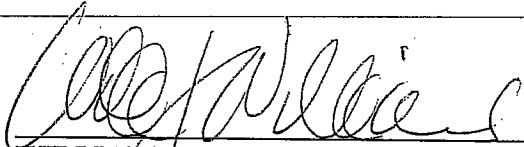
Because the exhibits attempt to demonstrate, on one page, the computation of public assistance benefits for different hypothetical clients, they do not fit within the type and spacing requirements for pages in the brief. *See* RAP 10.4(a). While there is discussion of these calculations in the text of the brief, it would be awkward at best to include the illustrative calculation in the brief itself. Appellant believes placing these examples in the appendix where the Court may refer to them as needed in reviewing the application of the rule at issue is the most appropriate way to proceed. Accordingly, Appellant renews its request for permission to place these illustrative exhibits in the Appendix.

Appellant has previously requested permission to exceed the page limitation and file a brief of not more than seventy-five (75) pages, and Respondent has not objected to that motion. If in fact the Court grants the request, Appellant does not object to counting pages in the appendix that include the illustrative exhibits toward that seventy-five page limit.

5. Conclusion

For the reasons stated in its motion and above, Appellant requests permission pursuant to RAP 10.3(7) to include illustrative examples in the Appendix to the Brief of Appellant.

RESPECTFULLY SUBMITTED this 30th day of January, 2006.



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